

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

:
SETH BOONE TEMPLES, :
:
Plaintiff, : CIVIL ACTION FILE
VS. : NO. 704-CV-73 (HL)
:
SHIRLEY LEWIS, Nurse TARA, Sgt. :
McWATERS, Sgt. McKENNON, and Sgt. :
COFIELD :
:
Defendants. :

RECOMMENDATION

In an amended recommendation (doc. # 42) which has subsequently been adopted by the court (doc. # 43) addressing a motion to dismiss filed by certain of the above named defendants the plaintiff was advised that, “[r]eview of the electronic docket herein reveals that the defendant designated as Nurse Tara has never been served as she is no longer employed at the Lowndes County Jail (doc # 25). If plaintiff wants this defendant served with the complaint he must provide a good service address within thirty (30) days of the date of this recommendation failing which the undersigned will recommend that this defendant be dismissed as well.”

The amended recommendation was dated June 20, 2006. The plaintiff has failed to provide a good service address for defendant Tara as directed and he has not shown good cause for his failure to do so. Federal Rule of Civil Procedure 4(m) provides in pertinent part:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant . . .

The complaint herein was filed on June 21, 2004, (doc. # 2), defendant Tara has not been served for want of a good service address, more than 120 days have passed, the instructions to the plaintiff regarding this defendant contained in the June 20, 2006, amended recommendation constitutes Rule 4(m) notice to the plaintiff. In view of these facts it is the **RECOMMENDATION** of the undersigned that the complaint against defendant Nurse Tara be **DISMISSED without prejudice** subject to any statute of limitations consequences which may apply. Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable Hugh Lawson, United States District Judge, WITHIN TEN (10) DAYS of receipt thereof.

SO RECOMMENDED, this 9th day of August 2006.

/s/ Richard L. Hodge
RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE